

REMARKS

Reconsideration and withdrawal of the rejection and the allowance of all claims now pending in the above-identified patent application (*i.e.*, Claims 11-18) are respectfully requested in view of the foregoing amendments and the following remarks.

At the outset, it should be recognized that the present invention provides an apparatus for use in preventing the removal of, or tampering with, a construction fitting that is used for connecting one or more construction elements, *e.g.*, rod or pole-like elements to one another and to other items. Conventionally, such construction fittings, such as those used for a scaffold fitting, are held together using two hinged components with a bolt held in place by one of the two parts, while the other hinged part is retained by a nut. Because such bolt-and-nut retention means are easy to tamper with and thereby loosen, unauthorized removal of the connection between such parts of a construction fitting can represent a significant hazard in the construction industry.

The present invention, as now most broadly claimed, addresses the need to prevent the removal of, or tampering with, a construction fitting by providing an apparatus that includes two construction element engaging components and a fastener for connecting the two construction element engaging components to one another. The fastener has a bolt extending between the two construction element engaging components and a nut for tightening on the bolt rigidly connecting the engaging components with a gap therebetween. The nut has a “first side,” which faces in a direction of linear travel (B) of the nut, as the nut is being tightened onto the bolt, and a second side that is opposed to the

first side, as illustrated in FIGS. 3d and 4 of Applicant's *Specification*. A body portion is included for, at least partially, covering the nut for preventing access thereto by a tool capable of unfastening the nut, with the body portion extending from the nut to a position alongside the bolt within the gap. Locking means are movable relative to the body portion between a first position, in which the apparatus is removable from the construction fitting, and a second position in which the apparatus is prevented from being removed from the construction fitting. The locking means, in its second position, extends from the body portion in a direction toward the bolt with the gap, as best shown in FIGS. 3b and 7 of Applicant's *Specification*, is located beyond the first side of the nut in the direction of linear travel when the claimed anti-tampering apparatus is locked.

More particularly, the locking means of the presently claimed invention prevents the apparatus from being "pulled off" the nut, thereby preventing tampering of the nut-and-bolt connection. This is achieved by having locking means, that in a first position, in which the apparatus can be fitted and removed, allows the apparatus to pass over the nut, and in a second position, is located closer to the shank of the bolt so that, if an attempt is made to remove the anti-tampering apparatus, the locking means will prevent passage of the apparatus over the nut. The locking means, in its second position, is positioned so that it will strike against the first side of the nut and prevent removal of the anti-tampering apparatus. While it may be preferable for the locking means to engage the shank of the bolt for preventing movement and rattling, this is not essential. The key point, and that to which the presently claimed invention is now directed, is that the locking means is located beyond the first side of the nut along the direction of the shank of the bolt in a

tightening direction of linear travel.

As will be explained in greater detail hereinafter, nowhere in the prior art is such a novel and effective apparatus for preventing removal of, or tampering with, a construction fitting, which includes locking means located beyond a side of a nut in the direction of linear travel when the apparatus is locked, either disclosed or suggested.

By the present amendment, Applicant has amended independent Claim 11 (and all remaining claims via dependency) to recite that the nut of the fastener element has --a first side facing in a direction of linear travel of said nut when said nut is tightened onto said bolt and a second side opposed to said first side-- and that the --locking means [is] located beyond said first side of said nut in the direction of linear travel when said apparatus [is] locked.-- The language newly-entered for Claim 11 is submitted to find support in FIGS. 3b, 4 and 7 of Applicant's *Specification*, as filed, and is contended to distinguish the present invention over the applied prior art, as explained below.

Turning now, in detail, to an analysis of the Examiner's prior art rejection, initially, it should be noted that the first Office Action reads as applying Wright, U.S. Patent No. 5,205,616, as an anticipatory reference. Upon review of the Examiner's comments of the first Action, it became apparent that the Examiner was not applying Wright against Applicant's claims, but, instead, another prior art reference. Upon conferring with the Examiner via telephone on December 3, 2008, it was confirmed that the reference to which citation was intended was Brushaber, U.S. Patent No. 4,645,422, and that the Examiner intended to apply Brushaber, pursuant to 35 U.S.C. §102(b), as the anticipatory

reference in the rejection of the first Office Action. Consequently, briefly summarizing the Examiner's anticipation rejection of the first Office Action, as intended, it is the Examiner's stated position that Brushaber discloses an apparatus for preventing removal of, or tampering with, a construction fitting that includes two element engaging components (27, 28), a fastener (22) for connecting the two engaging components, which includes a bolt (22) and a nut (32) for tightening the bolt, thereby rigidly connecting the two construction element engaging components with a gap therebetween. According to the Examiner, Brushaber further discloses a body portion (50) for covering at least a portion of the nut for preventing access thereto and locking means (66) movable relative to the body portion between a first position and a second position, as recited in Applicant's independent Claim 11, thereby anticipating the claim.

In reply to the Examiner's anticipation rejection applying Brushaber, the applied citation discloses an anti-theft device for marine propellers, which would appear to take the form of a nut (32) having a transverse, threaded bore (38) and a spinner (50), which fits over the nut. The spinner is retained in place on the nut by a lateral lock pin (66), or grub screw, which engages the transverse bore.

In sharp contrast to that taught and suggested by Brushaber, the present invention, as now most broadly recited in amended independent Claim 11, provides that the locking means is located beyond the first side of the nut, along the direction of the shank of the bolt, in a tightening direction of its linear travel, rather than engaging the nut, *per se*, as is taught by Brushaber. The locking means of the present invention, in a first position, can

be fitted and removed, which allows the anti-tamper apparatus to pass over the nut and, in a second position, is located closer to the shank of the bolt, so that, if an attempt is made to remove the claimed apparatus, the locking means prevents passage of the apparatus over the nut. This is achieved by the locking means, in its second position, as being positioned such that the locking means will strike against the first side of the nut and prevent removal of the anti-tamper apparatus – features that are neither taught nor suggested by the prior art.

In light of the foregoing, it is respectfully contended that the Examiner's 35 U.S.C. §102(b) anticipation rejection of the first Office Action, which applies Brushaber, has now been overcome and it is respectfully requested that the issued anticipation rejection be withdrawn.

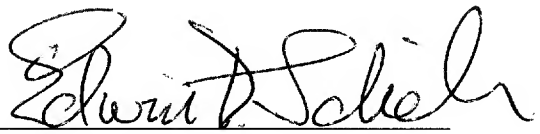
Concerning, finally, the remaining references cited by the Examiner, but not applied in any rejection of Applicant's claims, such additional references have been carefully considered, but are not deemed to adversely affect the patentability of the present invention, as now claimed.

In view of the foregoing, it is respectfully contended that all claims now pending in the above-identified patent application (*i.e.*, Claims 11-18) recite a novel and effective apparatus for preventing removal of, or tampering with, a construction fitting, which includes locking means located beyond a side of a nut in the direction of linear travel when the apparatus is locked, which is patentably distinguishable over the prior art.

Accordingly, withdrawal of the outstanding rejection and the allowance of all claims now pending are respectfully requested and earnestly solicited.

Respectfully submitted,

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The Commissioner for Patents is hereby authorized to charge the Deposit Account of Applicant's Attorney (*Account No. 19-0450*) for any fees or costs pertaining to the prosecution of the above-identified patent application, but which have not otherwise been provided for.